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IN THE

DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION

IN EQUITY.

No. 736-H

YOUNG'S MARKET COMPANY, A CORPORATION, ET AL.,
Plaintiffs and Appellees,

vs.

STATE BOARD OF EQUALIZATION OF THE STATE OF CALIFORNIA ET AL.,
Defendants and Appellants.

APPELLANTS' JURISDICTIONAL STATEMENT ON APPEAL.

To the Honorable Judges of the Above Entitled District Court of the United States:

The above named defendants and appellants and each of them, in support of the jurisdiction of the Supreme Court of the United States to review the above entitled cause and

the final decree and permanent injunction therein on appeal and particularly disclosing the basis therefor, respectfully represent:

(a) That the statutory provision believed to sustain such jurisdiction is Section 380 of Title 28 of the United States Code Annotated (Judicial Code Sec. 266 as amended) and particularly the last clause thereof reading:

> "and a direct appeal to the Supreme Court may be taken from a final decree granting or denying a permanent injunction in such suit."

(b) That the statute of the State of California, the validity of which is involved, is known as the Alcoholic Beverage Control Act, being Senate Bill No. 919, Chapter 330, Statutes of 1935 of the State of California, which said statute has not yet been paged in the official volume to be published of the 1935 Statutes of said State of California, and that a verbatim copy thereof is attached hereto, marked Exhibit 1, hereby referred to and made a part hereof.

(c) That the date of the final decree and permanent injunction sought to be reviewed is October 9, 1935, and that the date upon which the application for appeal herein is presented is January 7, 1936.

(d) The nature of the above entitled case was an application for an interlocutory and a permanent injunction restraining the defendants as the duly constituted officers of the State of California, from the enforcement and execution of all the provisions of said Alcoholic Beverage Control Act, a duly enacted statute of the State of California, relating and pertaining to importers of beer and the importation of beer, and to declare each and all of such provisions invalid, void and of no effect as being contrary

to and in violation of Section 8 of Article I of the Constitution of the United States and the Fourteenth Amendment to such Constitution. That upon the hearing of the application for the interlocutory injunction it was stipulated that the final decree might follow the same without further hearing and that the lower court ruled that such provisions violated the commerce clause (Section 8, Article I) and the equal protection clause (Section 1, Article XIV) of the Constitution of the United States, and that the fee imposed by said statute upon the importers of beer in the sum of Five Hundred ($500.00) Dollars is a direct and discriminatory burden upon interstate commerce and that the classification of beer importers is arbitrary and that the provisions created distinction "between the wholesalers of beer manufactured in California and those who sold beer imported into the State, with respect to the amount charged for the privilege of selling beer," and that "these provisions are in the nature of an economic barrier attempted to be established by legislation against competition with beer imported from other States—legislation, however, which contravenes the commerce clause and the equal protection clause of the Constitution of the United States."

(e) That the cases believed to sustain the jurisdiction of this appeal are as follows:

Oklahoma Gas & Elec. Co. v. *Oklahoma Packing Co.*, 292 U. S. 386, 390, 54 Sup. Ct. 732, 734;

Stratton v. *St. Louis S. W. Railway Co.*, 292 U. S. 10, 51 Sup. Ct. 8, 75 L. Ed. 135;

Brucker v. *Fisher* (6 C. C. A. Mich. 1931), 49 F. (2d) 759.

We respectfully submit that the Supreme Court of the United States has jurisdiction of this appeal by virtue of

Section 380, of Title 28 of the United States Code Annotated (Judicial Code, Section 266 as amended).

Respectfully submitted,

U. S. WEBB,
Attorney General;
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EUGENE M. ELSON,
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Attorneys for Defendants and Appellants.

EXHIBIT "1".

Alcoholic Beverage Control Act of the State of California.

(Chapter 330, Statutes of 1935)

and

Related Constitutional Provisions.

Published Under Authority of

State Board of Equalization.

JOHN C. CORBETT, San Francisco ..... *First District*
FRED E. STEWART, Oakland ..... *Second District*
R. E. COLLINS, Redding ..... *Third District*
ORFA JEAN SHONTZ, Montrose ..... *Fourth District*
RAY L. RILEY, Chairman, Colton ..... *Controller*
DIXWELL L. PIERCE ..... *Secretary*
FRANK M. KEESLING ..... *Assistant Secretary*
GEORGE M. STOUT ..... *Liquor Control Administrator*

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United States Constitutional Amendment No. XXI.

Repeal of Eighteenth Amendment.

§ 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

§ 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

§ 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by convention in the several States, as provided in the Constitution within seven years from the date of the submission hereof to the States by the Congress.

History.—This amendment to the Federal Constitution became effective December 5, 1933.

California Constitutional Amendment.

Article XX.

State Control of Liquor Sales.

Sec. 22. The State of California, subject to the Internal Revenue Laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of intoxicating liquor within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the States shall have the exclusive right and power to regulate the importation into and exportation from the State, of intoxicating liquor. Intoxicating liquors, other than beers, shall not be consumed, bought, sold, or otherwise disposed of for consumption on the premises, in any public saloon, public bar or public barroom within the State; provided, however, that subject to the aforesaid restriction, all intoxicating liquors may be kept and may be bought, sold, served, consumed, and otherwise disposed of

in any bona fide hotel, restaurant, cafe, cafeteria, railroad dining or club car, passenger ship, or other public eating place, or in any bona fide club after such club has been lawfully operated for not less than one year. The State Board of Equalization shall have the exclusive power to license the manufacture, importation and sale of intoxicating liquors in this State, and to collect license fees or occupation taxes on account thereof and shall have the power, in its discretion, to deny or revoke any specific liquor license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals. It shall be unlawful for any person other than a licensee of said board to manufacture, import or sell intoxicating liquors in this State. Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of intoxicating liquors in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the so-called State Liquor Control Act, California Statutes 1933, Chapter 658, in so far as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of intoxicating liquors other than beers and wines, shall be $250.00 per year, or $62.50 per quarter annum for seasonal businesses, subject to the power of the State Board of Equalization to change such fees.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of liquor contained in the original packages, where such liquor is not to be consumed on the premises where sold.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

History.—On November 8, 1932, the people of the State of California repealed the Wright Act which enforced the provisions of the Eighteenth Amendment to the Constitution of the United States and the provisions of the Volstead Act. Section 22 was added to Article XX of the State Constitution at the same time.

On November 6, 1934, the people of the State of California adopted an amendment to section 22, Article XX of the State Constitution. This section in its present form is set forth above.

Alcoholic Beverage Control Act.

Chapter 330, Statutes of 1935.

[Approved by the Governor June 13, 1935.]

An act to license, regulate and control the manufacture, transportation, sale, purchase, possession and disposition of alcoholic beverages; to levy an excise tax on the sale of alcoholic beverages; to provide for the licensing of the manufacture, distribution and sale of alcoholic beverages; to prescribe penalties for the violation of this act; to make an appropriation for the enforcement of this act; to take effect immediately.

The people of the State of California do enact as follows:

§ 1. Short Title.

Section 1. This act is known and may be cited as the "Alcoholic Beverage Control Act."

§ 2. Definitions.

Sec. 2. The following words, terms and phrases when used in this act have the meanings ascribed to them in this

section, except where the context clearly indicates a different meaning:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one per cent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

(c) "Beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof in water, and shall include ale, porter, brown, stout, lager beer, small beer and strong beer but shall not include sake known as Japanese rice wine.

(d) "Distilled spirits" means ethyl alcohol, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(e) "Wine" means the product obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four per cent of alcohol by volume and shall include sake known as Japanese rice wine.

(f) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit, and the plural as well as the singular number.

(g) "Board" means the State Board of Equalization of the State of California.

(h) "Club" means a corporation or association which is the owner, lessee or occupant of an establishment operated

solely for objects of a social or athletic nature, having a bona fide membership list, and the majority of the members of which pay dues at least once in every year, but not for pecuniary gain, and the property as well as the advantages of which belong to the members.

(i) "Manufacturer" means every person, who within the State of California, brews, ferments, distills, cuts, blends, rectifies, or otherwise processes, produces, or manufactures alcoholic beverages containing one-half of one per cent or more of alcohol by volume; provided that any person who manufactures not to exceed two hundred gallons of wine per year for his own consumption, shall not, because of such manufacture, be considered a manufacturer within the meaning of this act.

(j) "Rectifier" means every person who colors, flavors, or otherwise processes distilled spirits by distillation, blending, percolating or other processes.

(k) "Importer" means every person who, in the case of alcoholic beverages brought into this State from outside of this State, is the first in possession thereof within this State after the act of importation is completed.

(l) "Sell" or "sale" and the phrase "to sell" means and includes any of the following: to exchange, barter, traffic in; to solicit or receive an order for; to keep or expose for sale; to serve for a consideration with or without meals; to traffic in or deliver for value or in any way other than gratuitously; to possess with intent to sell. The transfer of title to alcoholic beverages unaccompanied by a transfer of possession of such beverages shall not be deemed a sale of such beverages.

(m) "Public bar" means any bar, counter or other structure over which beverages of an alcoholic content in excess of four per cent by weight are sold or served by the drink to the public for consumption on the premises; provided, however, that counters or other structures used for the sale, service and consumption of meals, and not as a subterfuge for a public bar, shall not be deemed to be a public bar within the meaning of this act. "Public barroom" or

"public saloon" means any room to which the public has access in which is maintained a "public bar."

(n) "Package" or "original package" means any container or receptacle used for holding alcoholic beverages which is corked or sealed with a stub, stopper or cap, or in any other manner.

(o) "To bottle" or "to package" means to bottle, barrel, or otherwise place alcoholic beverages in a container.

(p) "Distiller" means a manufacturer who produces distilled spirits from naturally fermented material.

(q) "Proof spirits" means that alcoholic liquor which contains one-half of its volume of pure ethyl alcohol of a specific gravity of 0.7939 at sixty degrees Fahrenheit, referred to water at sixty degrees Fahrenheit as unity.

(r) "Proof gallon" means a gallon of proof spirits, or an equivalent amount of alcohol.

(s) "Wholesaler" means and includes every person other than a manufacturer or rectifier who is engaged in business as a broker, jobber or wholesale merchant, dealing in alcoholic beverages.

(t) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(u) "Retailer's on-sale license" means and includes on-sale beer licenses, on-sale beer and wine licenses, and on-sale distilled spirits licenses.

(v) Gallon or "Wine gallon" means that liquid measure containing two hundred thirty-one cubic inches.

(w) "Wine manufacturer" means any person engaged in the manufacture of wine as the term "wine" is defined in this act.

(x) "Still" means a still used in the production or capable of being used in the production of alcoholic beverages and does not include stills or apparatus used solely in the production of distilled water or substances other than alcoholic beverages.

§ 3. Licenses Required of Alcoholic Beverage Dealers.

SEC. 3. On and after July 1, 1935, no person shall perform any act or acts which would constitute such person a manufacturer, rectifier, importer, wholesaler, or retailer of any alcoholic beverage within the meaning of this act or shall package, label or sell any alcoholic beverage unless such person is authorized to do so by a license duly issued pursuant to the provisions of this act, or pursuant to the provisions of the State Liquor Control Act, Chapter 658, Statutes of 1933. Any person violating any provision of this section shall be guilty of a misdemeanor.

§ 4. Registration of Stills.

SEC. 4. On and after July 1, 1935, every still located within the limits of this State must be registered with the board. Every person owning or possessing a still who fails to register the same as herein required or who fails to obtain a license issued pursuant to the provisions of this act authorizing the ownership and possession of such still shall be guilty of a felony.

The board may seize and summarily destroy any still which is not registered or for which a license has not been obtained as required by this act.

§ 5. Types of Licenses; Fees.

SEC. 5. The following are the types of licenses to be issued under this act and the annual fees to be charged therefor:

1. Beer manufacturer's license	$750.00 per year
2. Wine manufacturer's license, one thousand gallons or less per year	5.00 per year
Over one thousand gallons to two thousand five hundred gallons per year	10.00 per year
Over two thousand five hundred gallons to five thousand gallons per year	20.00 per year
Over five thousand gallons to twenty thousand gallons per year	40.00 per year

Over twenty thousand to one hundred thousand gallons per year	75.00 per year
Over one hundred thousand to two hundred thousand gallons per year	100.00 per year
Over two hundred thousand gallons to one million gallons a year	150.00 per year
For each million gallons or fraction thereof over a million gallons an additional	100.00 per year
3. Distilled spirits manufacturer's license	250.00 per year
4. Still license	10.00 per year per still
5. Rectifier's license	250.00 per year
6. Fruit brandy manufacturer's license	150.00 per year
7. Distilled spirits and wine importers license	100.00 per year
8. Beer importer's license	500.00 per year
9. Wine bottling or packaging license	10.00 per year
10. Distilled spirits bottling or packaging license	250.00 per year
11. Beer bottling or packaging license	500.00 per year
12. Distilled spirits wholesaler's license	250.00 per year
13. Beer and wine wholesaler's license	50.00 per year
14. Retail package off-sale beer and wine license	10.00 per year
15. Retail package off-sale distilled spirits license for the first $10,000 retail sales per year	100.00 per year
For each $1,000 retail sales or fraction thereof over $10,000 per year	10.00 per year
16. Industrial alcohol dealer's license	50.00 per year
17. On-sale beer license	25.00 per year
18. On sale beer and wine license	75.00 per year
19. On sale beer and wine license for trains (per train)	15.00 per year
20. On sale beer and wine license for boats (per boat)	50.00 per year
21. On sale distilled spirits license	As set by the board.

The fees specified above shall be reduced twenty-five per cent for each full quarter of a year elapsing between the first day of the year for which the license is issued and the date on which the application for the license is filed with the board; provided, that where an application clearly indicates that the applicant does not desire to exercise the privileges granted by the license applied for until on or after the beginning of the quarterly period following the quarterly period in which the application is filed with the board, such fees shall be reduced twenty-five per cent for each full quarter of a year elapsing between the first day of the year for which the license is issued and the date so indicated in the application.

Where the fee for any license is graduated according to the amount of alcoholic beverages manufactured or sold under the license, and the license is applied for after the beginning of the year, the amount of alcoholic beverage authorized to be manufactured or sold under the license shall be reduced proportionately with the reduction in fee provided in the preceding paragraph in accordance with such rules and regulations as the board may prescribe.

§ 6. Privileges Granted by Licenses.

SEC. 6. Except as otherwise provided in this act and subject to the provisions of section 22 of Article XX of the Constitution, the licenses provided for in the preceding section shall authorize the person to whom issued to exercise the following rights and privileges and no others at the premises for which issued during the year for which issued.

(a) Any manufacturer's license authorizes the person to whom issued to become a manufacturer of the alcoholic beverage specified in the license, to package, mix, flavor and color and label the same and to export or sell such alcoholic beverages to persons holding licenses issued by the board authorizing the sale of such alcoholic beverage; provided that a wine manufacturer's license authorizes the manufacture of grape brandy to be used exclusively for fortifying purposes by its holder on the premises for which issued.

(b) A still license authorizes the person to whom issued to own or possess the number of stills indicated in the license upon the premises for which issued.

(c) A rectifier's license authorizes the person to whom issued to cut, blend, mix, flavor, color and bottle distilled spirits and to export or sell such products to persons holding licenses issued by the board authorizing the sale of distilled spirits.

(d) Any importer's license authorizes the person to whom issued to become an importer of alcoholic beverages specified in the license and to export such alcoholic beverage.

(e) A bottling or packaging license authorizes the labeling, bottling or packaging of the alcoholic beverages specified in the license.

(f) Any wholesaler's license authorizes the sale of the alcoholic beverage specified in the license only to persons holding licenses issued by the board authorizing the sale of such alcoholic beverage.

(g) An off-sale beer and wine license authorizes the sale, to consumers only and not for resale, of beer in packages and in quantities of thirty-one gallons or less, per sale and the sale of wine in packages and in quantities of fifty-two gallons or less, per sale for consumption off the premises where sold.

(h) An off-sale distilled spirits license authorizes the sale, to consumers only and not for resale, of distilled spirits in quantities of less than five gallons per sale and in packages of one gallon or less for consumption off the premises where sold.

(i) An industrial alcohol dealer's license authorizes the sale of undenatured ethyl alcohol or other distilled spirits in packages of more than one gallon for use in the trades, professions or industries.

(j) Any on-sale license authorizes the sale of the alcoholic beverage specified in the license for consumption on the premises where sold. An on-sale beer and an on-sale beer

and wine license also authorizes the exercise, with respect to the particular beverage or beverages mentioned in such license, of the rights and privileges granted by an off-sale beer and wine license. On trains and boats, under such licenses, alcoholic beverages may be sold only to passengers or employees.

§ 7. Separate License for Each Premise; License not Transferable; Duplicate Licenses.

SEC. 7. Each license issued under this act shall be issued to a specific person, and, except in the case of licenses authorizing the sale of alcoholic beverages on trains or boats, shall be issued for a specific location, the principal address of which shall be indicated on the license. Separate licenses shall be issued for each of the premises of any business establishment having more than one location.

Licenses for trains and boats shall be based on the average number in actual operation, during the license year, of each class of operating units, viz, trains and boats upon which the license privileges are exercised, such average number to be determined as the board may prescribe.

Each license issued under this act is separate and distinct, shall be nontransferable from one person to another, and shall be transferable from the premises for which issued only as may be permitted by the board, upon payment of a transfer fee of five dollars for each license.

Whenever a license certificate issued under the act is lost or destroyed, the board shall issue a duplicate license upon the payment of a fee of five dollars.

§ 8. Period for Which Licenses Issued; Penalty for Failure to Reapply.

SEC. 8. All retailer's on-sale licenses shall be issued on a calendar year basis and shall automatically expire at midnight on the last day of December of the year for which issued. All other licenses issued under this act shall be issued on the basis of a fiscal year commencing July first and ending June thirtieth, and shall automatically expire at midnight on the last day of June of the year for which issued.

All licenses issued under the provisions of the State Liquor Control Act, Chapter 658, Statutes of 1933, which authorize the sale of liquor specified in the licenses for consumption on the premises shall automatically expire at midnight on December 31, 1935.

All other licenses issued under said act and all licenses issued under the provisions of Chapter 178, Statutes of 1933, shall automatically expire at midnight on June 30, 1935. One-half the annual fee for any license so expiring at midnight on June 30, 1935, shall be allowed as a credit against the fee for any comparable license issued under this act during 1935.

For failure to reapply for a license prior to the time when any license expires, the board may by regulation prescribe that in addition to the license fees specified in section 5 hereof a penalty of not to exceed twenty-five per cent of such fees must be paid.

§ 9 Signing and Posting of Licenses.

SEC. 9. Upon receipt of any license issued hereunder the licensee shall sign said license and shall post the license in a conspicuous place upon the licensed premises. Licenses issued for trains or boats may, in lieu of being posted upon the train or boat for which issued, be posted in such other place in this State as the board shall designate.

§ 10. Applications for Licenses.

SEC. 10. To obtain a license under this act application therefor, accompanied by the license fee therefor, must be made to the board upon a form prescribed by the board. The application must contain the name of the applicant, and in the case of a copartnership, the names of the individual parties, in the case of a corporation the principal officers and directors, the location of the premises for which a license is applied and such other information as the board may require to assist it in determining whether the applicant and the premises qualify for a license. The board may require that the application for any on-sale license be verified under oath and be endorsed by five freeholders or

householders of the city or county in which the applicant resides or the premises are located.

§ 11. Investigation of Applicant; Refund of Fee.

SEC. 11. Upon receipt of an application for a license and the license fee the board shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The board must deny an application for a license if either the applicant or the premises for which a license is applied do not qualify for a license under this act.

If an application is denied, three-fourths of the license fee paid, or an amount equal to the license fee paid less ten dollars, whichever is greater, shall be returned to the applicant and the balance shall be deposited in the alcoholic beverage control fund hereinafter created.

§ 12. Citizenship Qualifications.

SEC. 12. No on-sale distilled spirits license shall be issued to any applicant who is not a citizen of the United States; and where a corporation, partnership or other business association is the applicant no such license shall be issued to it unless the majority of the members of the board of directors and all of its officers who are charged with the duty of managing, directing or conducting said business, are citizens of the United States.

§ 13. Premises Near Churches, Schools, etc.

SEC. 13. The board is specifically authorized to refuse the issuance of on-sale retail licenses for premises located within the immediate vicinity of churches, hospitals, schools and children's public playgrounds.

§ 14. Restrictions on Issuance of Licenses Following Revocation.

SEC. 14. No retail license shall be issued to any applicant for any premises for which a license has been forfeited, or revoked, during the three months immediately preceding the filing of such application.

§ 15. Zoning Ordinances.

SEC. 15. No retail license shall be issued for any premises which are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county, city and county or municipality unless such premises had been used in the exercise of such rights and privileges at a time prior to the effective date of any such valid zoning ordinance.

Nothing in this act contained shall be deemed to interfere with the powers of cities, counties, and cities and counties, conferred upon them by Chapter 734, Statutes of 1917, the same being an act of the Legislature entitled, "An act to provide for the establishment within municipalities of districts or zones within which the use of property, height of improvements and requisite open spaces for light and ventilation of such buildings, may be regulated by ordinance."

§ 16. Restrictions on Issuance of On Sale Licenses.

SEC. 16. No retailer's on-sale license shall be issued to any person to whom or for any premises for which a manufacturer's, importer's, wholesaler's or rectifier's license shall have been issued, and no manufacturer's, importer's, wholesaler's or rectifier's license shall be issued to any person to whom or for any premises for which a retailer's on-sale license is issued.

§ 17. Public Works Camps.

SEC. 17. No license shall be issued to any applicant for any premises situated more than one mile outside the limits of an incorporated city or town and within four miles of any camp or establishment of men numbering twenty-five or more, engaged upon or in connection with the construction, repair or operation of any work, improvement or utility of a public or quasi public character; provided, however, that nothing in this section shall be deemed to apply to the renewal of any licenses for any premises which have been established and licensed under this act or

under the State Liquor Control Act, Chapter 658, Statutes of 1933 at least six months prior to the establishment of such camp or establishment of men.

§ 18. Restrictions on Issuance of On Sale Beer and Wine and Distilled Spirits Licenses.

SEC. 18. Retailer's "on-sale beer and wine licenses" or "on-sale distilled spirits licenses" shall be issued only to bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships or other public eating places, or bona fide clubs after such clubs have been lawfully operated for not less than one year.

§ 19. Fruit Brandy Manufacturer's License.

SEC. 19. Fruit brandy manufacturer's licenses shall be issued only to persons holding a wine manufacturer's license.

§ 20. Industrial Alcohol Dealer's License.

SEC. 20. Industrial alcohol dealers' licenses shall be issued only to persons to whom, and for premises, for which, either a distilled spirits manufacturer's, importer's or wholesaler's license has been issued.

§ 21. Posting Notice; Notice to Local Authorities.

SEC. 21. Before commencing to engage in the sale of any alcoholic beverage at any premises, notice of intention to so commence, must be posted in a conspicuous place at the entrances to such premises. Licenses will not be issued for such premises until such notice has been so posted for fifteen consecutive days immediately prior to the issuances of the licenses. The notice herein specified shall be in such form as the board shall prescribe.

Upon the receipt by the board of an original application for any license, notice thereof shall immediately be given by said board to the sheriffs, chiefs of police and district attorneys of such locality, and to the city clerks and city planning commissions in such locality upon request.

§ 22. Payment of Varying License Fees; Report of Sales.

SEC. 22. In the case of any applicant whose license fee varies with the total amount of alcoholic beverages manufactured or sold, the applicant shall at the time of filing application for license, accompany such application with the minimum license fee required, or such larger fee as the applicant shall elect.

The licensee shall report quarterly at such time and in such manner as the board may prescribe, the amount of alcoholic beverages manufactured or sold during the preceding quarter.

If any such report shows that the total amount of alcoholic beverages manufactured or sold during the year exceeds the amount permitted annually by the license fee already paid the board, the licensee shall accompany such report with such additional license fee as shall authorize him to continue to manufacture or sell additional amounts of alcoholic beverages in accordance with the schedule provided in section 5.

Failure to report the amount of alcoholic beverages manufactured or sold as herein required and to pay such additional license fees when due within ten days of the date set by the board, shall be considered a violation of this act, and shall also subject the licensee to an arbitrary assessment of such license due by the board.

Failure to make a final report and payment of any license due at the end of any tax year shall operate to prevent the board from issuance of any license to any delinquent licensee.

§ 23. Excise Tax on Beer and Wine.

SEC. 23. An excise tax is hereby imposed upon all beer and wine sold in this State by a manufacturer or importer on or after July 1, 1935, at the following rates:

(a) On all beer, sixty-two cents for every barrel containing thirty-one gallons, and at a proportionate rate for any other quantity;

(b) On all wine, two cents per wine gallon, and at a proportionate rate for any other quantity;

(c) On champagne, or sparkling wine, whether naturally or artificially carbonated, three cents per pint or fraction thereof.

Beer and wine consumed by employees of manufacturers or importers upon the premises of such manufacturers and importers shall be exempt from tax under such rules and regulations as the board may prescribe.

It shall be presumed, for the purposes of this act, that all beer and wine produced, brewed, fermented, or manufactured in this State by a manufacturer, or delivered to a manufacturer or importer here, has been sold by such manufacturer or importers unless proven to the satisfaction of the board that such beverages are still in the possession of such manufacturer or importer, or, prior to the termination of such possession, have been lost through evaporation, leakage, spillage or destruction by the elements.

§ 24. Excise Tax on Distilled Spirits.

SEC. 24. An excise tax is hereby imposed upon all distilled spirits sold in this State on and after July 1, 1935, at the following rates:

On all distilled spirits of proof strength or less, two cents on each bottle containing two ounces or fraction thereof; five cents on each bottle containing eight ounces or fraction thereof greater than two ounces; ten cents on each bottle containing one pint or fraction thereof greater than a half pint; sixteen cents on each bottle containing one-fifth gallon or fraction thereof greater than one pint; twenty cents on each bottle containing one quart or fraction thereof greater than one-fifth gallon; forty cents on each bottle containing one-half gallon or fraction thereof, greater than one quart; eighty cents on each bottle containing one gallon or fraction thereof greater than one-half gallon.

All distilled spirits in excess of proof strength shall be taxed at double the above rate.

§ 25. Bond of Beer and Wine Manufacturers and Importers.

SEC. 25. Every person who engages in business as, or becomes a manufacturer or importer of beer or wine, as de-

fined in this act, shall be required by the board to file with said board a bond duly executed by such person as principal and a corporation such as is mentioned in section 1056 of the Code of Civil Procedure in this State, as surety, payable to the people of the State of California, conditioned upon the payment of all excise taxes and penalties assessed against or imposed upon such person, arising out of this act.

The bond shall contain the provisions and be in the form substantially as follows:

"Know all men by these presents:

That we, ——, as principal, and —— a corporation, duly organized and doing business under and by virtue of the laws of ——, and duly licensed for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as surety, are held and firmly bound unto the people of the State of California in the sum of — dollars ($—), lawful money of the United States of America, for the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

Whereas, the above bounden principal has made application to the State Board of Equalization of the State of California for a license authorizing said principal to engage in business as a manufacturer or importer of beer or wine within the meaning of the Alcoholic Beverage Control Act and amendments thereto, and

Whereas, under the terms of said act a bond is required of said principal and good and sufficient surety, payable to the people of the State of California, conditioned upon the payment to the State of California of all of the excise taxes and penalties assessed against or imposed upon said principal arising out of said act.

Now therefore, if the above bounden principal shall pay all excise taxes and penalties assessed against or imposed upon said principal arising out of said act, or if the board, within thirty days after any default by said principal in

the payment of any such tax or penalty shall fail to notify the surety thereof, personally or by mail, then this obligation shall be null and void: otherwise to remain in full force and effect.

That said bond shall remain in force and effect until the surety or sureties are released from liability by said board or until said bond is canceled by said surety or sureties as hereinafter provided.

The surety herein reserves the right to withdraw as such surety, except as to any liability already incurred or accrued hereunder, and may do so upon giving written notice of such withdrawal to the State Board of Equalization; provided, however, that no withdrawal shall be effective for any purpose until thirty days shall have elapsed from and after receipt of such notice by said board; and further provided, that no withdrawal shall in anywise affect the liability of said surety arising out of any sale of beverage made by the principal herein prior to the expiration of such period of thirty days, regardless of whether or not the excise tax based upon such sale shall have been due prior to the expiration of such period.

Signed and sealed this — day of ——, 193-.

——— ———,
Principal.

By ——— ———.

——— ———,
Surety.

By ——— ———."

The total amount of the bond or bonds required of any such manufacturer or importer shall be fixed by the board and may be increased or reduced by said board at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any such manufacturer or importer, the board must require a bond or bonds equivalent in total amount to one and one-half times his estimated monthly excise tax determined in such manner as said board may deem proper; provided, that the total amount of the bond or bonds required of any such

manufacturer or importer shall never be less than five hundred dollars.

§ 26. Reports of Beer and Wine Manufacturers and Importers; Payment of Tax.

SEC. 26. Every manufacturer or importer of alcoholic beverages taxable under this act shall render to the board on or before the tenth day of August, 1935, and on or before the tenth day of each month thereafter, a verified statement of the quantity of such alcoholic beverage sold by such manufacturer or importer during the preceding calendar month. Such statement shall be in such form as the board may prescribe, together with such other information as the board may require.

If any manufacturer or importer shall fail, neglect or refuse to file said report, within the time prescribed for filing such report, the board must note such failure, neglect or refusal upon the tax roll hereinafter described, and must estimate the amount of alcoholic beverage sold by said manufacturer or importer assessing the excise tax thereon, adding to said excise tax a penalty of fifteen per cent thereof for failure, neglect, or refusal to report. Such action of the board shall be final, and subject only to review by a court of competent jurisdiction.

The board shall, on or before the twenty-second day of August, 1935, and on or before the twenty-second day of each calendar month thereafter, assess the excise tax due hereunder, and prepare and complete an assessment roll showing the amount of the excise tax assessed against each manufacturer and importer and immediately deliver said assessment roll to the State Controller.

Excise taxes herein required to be paid by the manufacturer or importer shall be payable in monthly installments to the State Controller for the month ending July 31, 1935, and for each and every calendar month thereafter. The amount of such excise tax for each month shall be paid on or before the tenth day of the second calendar month thereafter, and if not paid prior thereto, shall become delinquent at five o'clock in the afternoon of said day, and ten per cent penalty shall be added thereto for delinquency.

§ 27. Examination of Records by Board.

SEC. 27. The board may examine the books and records of any person required to make said statement, and may also examine the books and records of any licensee as herein defined, and such books and records shall at all times be subject to the inspection of said board or its representatives during regular business hours.

If any examinations or investigations made by the board shall disclose that any reports of manufacturers or importers theretofore filed with said board by said manufacturers or importers pursuant to the requirements of this act, have shown incorrectly the amount of alcoholic beverage sold or the excise tax accruing thereon, said board shall have the power and is hereby authorized, to make such changes in subsequent assessments of said manufacturers or importers under this act as it may deem necessary to correct the errors disclosed by its examination of the records of said manufacturers or importers or its investigations in pursuance of its powers hereunder.

§ 28. Penalty for Refusal to Permit Examination.

SEC. 28. Any person refusing to permit the board or any of its representatives to make the inspection for which provision is made in the preceding section or failing to keep books of account as may be prescribed by the board or failing to preserve such books for the inspection of the board for such time as the board may deem necessary, and any person altering, canceling or obliterating entries in such books of account for the purpose of falsifying the records of sales of alcoholic beverages made under this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

§ 29. Exemption of Sales to Another Manufacturer or Importer.

SEC. 29. No excise tax shall be imposed by this act in any transaction whereby any alcoholic beverages are sold and

delivered by a manufacturer or importer to another manufacturer or importer holding a valid manufacturer's or importer's license.

In order to obtain the exemption granted under this section, the manufacturer or importer selling alcoholic beverages must present to the board at the time of filing his monthly report required under section 26, a verified statement, in a form to be prescribed by the board, obtained from the purchaser showing the date, kind and quantity of alcoholic beverage sold and delivered to the purchaser, that the purchaser holds at the time of such purchase, a manufacturer's or importer's license, the number of such license, and such other information as the board may require. A copy of this statement must at all times be kept on file at the place of business of the manufacturer or importer desiring to obtain the exemption herein granted.

§ 30. Exports; Export Certificates.

SEC. 30. None of the provisions of this act shall apply, or be construed to apply, to commerce with foreign Nations or commerce with the several States, except in so far as the same may be permitted under the provisions of the Constitution and laws of the United States nor shall the excise tax imposed by section 23, of this act apply to alcoholic beverages sold and actually exported from this State by a licensed manufacturer or importer, or by a subsidiary of a licensed manufacturer or importer, but every manufacturer and importer shall be required to report such exports to the board in such detail as the board may require, otherwise the exemption herein granted shall be null and void and such alcoholic beverage shall be considered sold in this State subject fully to the provisions of this act.

In support of any exemption from excise taxes claimed under this section on account of the exportation of alcoholic beverage every manufacturer must execute an export certificate in such form as shall be prescribed, prepared and furnished by the board containing a sworn statement made by some person having knowledge of the fact of such exportation that the alcoholic beverage has been exported from this State, and giving such detail with reference to

shipment as said board may require. All exportation certificates must be completed and on file in the office of the board within thirty days after the close of the calendar month in which the shipments were made and no certificate not completed and filed within such period shall be recognized for any purpose by the State or any agency thereof. The board may demand of any manufacturer or importer such additional data as is deemed necessary by said board in support of any such certificate and failure to supply such data will constitute waiver of all right to exemption claimed by virtue of said certificate.

§ 31. Collection Procedure; Lien of Tax.

SEC. 31. In any case in which any tax, interest or penalty imposed under this act is not paid when due the Controller shall notify the board and may file in the office of the county clerk of Sacramento County or any other county a certificate specifying the amount of the tax, interest and penalty due, the name and last known address of the manufacturer or importer liable for the same, that the board has complied with all the provisions of this act, in relation to the computation and levy of the tax and a request that judgment be entered against the manufacturer or importer in the amount of the tax, interest and penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the manufacturer or importer in the amount of the tax, interest and penalty set forth in the certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled "Special Judgments for State Excise Tax.".

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, interest and penalty therein set forth shall constitute a lien upon all the real property of the manufacturer or importer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien. Execution shall issue upon such a judgment upon the request of the

Controller in the same manner as execution may issue upon other judgment and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the Controller shall be authorized to act on behalf of the people of the State of California.

In the event that any manufacturer or importer is delinquent in the payment of the excise tax herein provided for, the Controller shall notify the board forthwith and may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to such manufacturer or importer, or owing any debts to such manufacturer or importer, at the time of receipt by them of such notice, and thereafter any person so notified shall neither transfer nor make other disposition of such credits, other personal property or debts until the Controller shall have consented to a transfer or disposition, or until twenty days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice, advise the Controller of any and all such credits, other personal property or debts, in their possession under their control or owing by them, as the case may be.

Whenever any manufacturer or importer shall be delinquent in the payment of the excise tax herein provided for, the Controller or his duly authorized representative may proceed forthwith to collect the excise tax due from such manufacturer or importer in the following manner: The Controller shall seize any property, real or personal, of the taxpayer, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the excise tax due hereunder, together with any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent manufacturer or importer and to all persons appearing of record to have an interest in such property, in writing at least

ten days before the date set for such sale by inclosing such notice in an envelope addressed to said manufacturer or importer at his last known residence or place of business in this State if any, and, depositing same in the United States registered mail, postage prepaid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said ten days period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the excise taxes, penalties and costs, the name of the manufacturer or importer and the further statement that, unless such excise taxes, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

At any such sale, the property shall be sold by the Controller or by his duly authorized agent in accordance with law and said notice, and the Controller shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest title in the purchaser subject to a right of redemption as prescribed in the Code of Civil Procedure upon sales of real estate on execution. The unsold portion of any property so seized may be left at the place of sale at the risk of the manufacturer or importer. If, upon any such sale, the moneys so received shall exceed the amount of all license taxes, penalties and costs due the State from such manufacturer or importer, any such excess shall be returned to the manufacturer or importer, and his receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the Controller prior to any such sale notice of such interest said Controller shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If,

for any reason, the receipt of such manufacturer or importer shall not be available, the Controller shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such manufacturer or importer, his heirs, successors or assigns.

The Controller must also immediately transmit notice of such delinquency to the Attorney General who shall at once proceed to collect all sums due to the State from any such manufacturer or importer hereunder by bringing suit against the necessary parties to effect forfeiture of the bond or bonds of the manufacturer or importer, reducing any deficiency to judgment against the manufacturer or importer.

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board, Controller or Attorney General shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

In any suit brought to enforce the rights of the State hereunder the assessment roll prepared by the board pursuant to section 26 of this act, or a copy of so much thereof as is applicable in such suit, duly certified by the Controller showing unpaid excise taxes assessed against any manufacturer or importer, shall be prima facie evidence of the assessment of the excise tax, the delinquency thereof, the amount of the excise tax, penalties and costs due and unpaid to the State, that the manufacturer or importer is indebted to the people of the State of California in the amount of such excise tax and penalties therein appearing unpaid and that all the forms of law in relation to the assessment and levy of such excise tax have been fully complied with by all persons required to perform administrative duties under this act.

§ 32. Action to Recover Tax.

SEC. 32. Any action to recover any excise tax levied pursuant to this act and paid under protest must be instituted within sixty days after the payment of such excise tax,

and failure to bring suit within said sixty days shall constitute waiver of any and all demands against this State on account of alleged overpayment of excise taxes hereunder. No grounds of illegality of the excise tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the excise tax.

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise taxes due from the plaintiff under this act, and the balance of the amount of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of six per cent per annum upon the amount of excise tax found to have been illegally collected from the date of payment of such excise tax to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the Controller.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any excise tax paid hereunder, when such action is brought by or in the name of an assignee of the manufacturer or importer paying said excise tax, or by any person, other than the person who has paid such excise tax.

§ 33. Distilled Spirits Excise Stamp

SEC. 33. The tax imposed by section 24 of this act upon the sale of distilled spirits shall be collected by means of attaching to each package containing such distilled spirits a stamp or stamps of a denomination equivalent to the amount of excise tax imposed upon the sale of the contents of such package. Such stamps shall be attached by the holders of on- or off-sale distilled spirits licenses issued under this act and by the holders of on-sale licenses for liquor other than beer and wine issued under the State Liquor Control Act, immediately upon opening the original cases in which the distilled spirits were packed and in which such distilled spirits were purchased from the manufacturer, rectifier, importer or wholesaler. In the case of

distilled spirits not in original cases at the time of purchase the stamps shall be attached immediately upon bringing such distilled spirits upon the premises for which such on- or off-sale licenses are issued.

Such stamps shall be sold by the board only to persons holding valid distilled spirits manufacturer's licenses, rectifier's licenses, distilled spirits and wine importer's licenses or distilled spirits wholesaler's licenses issued under this act or the State Liquor Control Act; provided, that until July 1, 1935, the board shall sell a sufficient number of such stamps, to stamp stocks of distilled spirits on hand, to persons holding valid on- or off-sale licenses for liquor other than beer and wine issued under the State Liquor Control Act; provided further, that the board may thereafter, in its discretion, sell such stamps to such holders of on- or off-sale distilled spirits licenses as it may determine.

On and after July 1, 1935, all distilled spirits delivered by any manufacturer, rectifier, importer or wholesaler of distilled spirits to any person holding an on- or off-sale distilled spirits license issued under this act or an on-sale license for liquor other than beer and wine issued under the State Liquor Control Act, must be accompanied by a sufficient number of stamps purchased from the board, to stamp the packages containing such distilled spirits. Every manufacturer, rectifier, importer or wholesaler of distilled spirits who delivers distilled spirits in violation of this section shall be guilty of a misdemeanor.

Such stamps shall be of such size, type, and character as the board shall determine; provided, that all such stamps must be of a character, design, and process which will give the State the maximum amount of protection against counterfeiting. The board shall have full charge and control of the issuance, securing, or purchase and of the sale of all such stamps and shall keep a record of all stamps sold.

At the time such stamps are attached to the packages of distilled spirits, they shall immediately be canceled by indelibly writing or stamping thereon the number of the licensee attaching the stamp and the date of cancellation.

§ 34. Effective Date of Provisions Requiring Attaching of Stamps; Penalty for Failure to Attach

SEC. 34. On and after July 1, 1935, it shall be unlawful for any person holding an on- or off-sale distilled spirits license issued under this act, or an on-sale license for liquor other than beer or wine issued under the State Liquor Control Act to have upon the premises for which any such license is issued any distilled spirits unless the stamps required by this act to be attached to the packages of such distilled spirits are so attached to said packages and canceled as herein required or unless such distilled spirits are still in the original cases in which such distilled spirits were purchased from the manufacturer, rectifier, importer or wholesaler, and such cases have not been opened since delivery to the premises for which such on- or off-sale licenses are issued.

On and after July 1, 1935, it shall be unlawful for any person holding an off-sale distilled spirits license issued under the act to sell under such license any distilled spirits unless the stamps required by this act to be attached to the packages of such distilled spirits are so attached to said packages, and canceled as herein required.

On and after July 1, 1935, it shall be unlawful for any person holding an on-sale distilled spirits license issued under this act or an on-sale license for liquor other than beer and wine issued under the State Liquor Control Act to serve or remove any distilled spirits from any packages at the premises for which such licenses are issued unless the stamps required by this act to be attached to the packages are so attached to said packages and canceled as herein required.

On and after July 1, 1935, it shall be unlawful for any person to deliver to any premises, for which an on- or off-sale distilled spirits license is issued under this act or for which an on-sale license for liquor other than beer or wine is issued under the State Liquor Control Act, any distilled spirits unless the containers of such distilled spirits bear a label or labels plainly indicating the quantity and proof

strength of the contents of such containers and the name of the manufacturer or distributor thereof.

On and after July 1, 1935, it shall be unlawful for any manufacturer, rectifier, importer or wholesaler of distilled spirits to deliver to any premises for which an on- or off-sale distilled spirits license is issued under this act or an on-sale license for liquor other than beer or wine is issued under the State Liquor Control Act, and it shall be unlawful for any such on- or off-sale licensee to sell at the premises for which any such license is issued distilled spirits in packages containing more than one gallon.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

The board may seize and summarily destroy any distilled spirits found upon any premises in violation of this section.

§ 35. Unlawful Sale of Stamps

SEC. 35. It shall be unlawful for any person other than the board or its duly authorized agents or the holder of a valid distilled spirits manufacturer's license, rectifier's license, distilled spirits and wine importer's license or distilled spirits wholesaler's license issued under this act or the State Liquor Control Act to sell or give away any stamps issued by the board pursuant to the provisions of this act unless such stamps are attached to packages of distilled spirits as herein required. Any person violating the provisions of this section shall be guilty of a misdemeanor.

§ 36. Counterfeiting or Fraudulent Use of Stamps.

SEC. 36. Every person who makes, sells, or uses any false or counterfeit stamp or die for printing or making stamps which is in imitation of or purports to be a lawful stamp, or die of the kind before mentioned in this act, or who procures the same to be done, and every person who shall remove or cause to be removed, from any package of distilled spirits any stamp denoting the tax thereon, with intent to reuse such stamp, or who with intent to defraud the State, knowingly uses, or permits to be used any stamp removed from another package, or receives, buys, sells, gives away, or has in his possession, any stamp so removed, or makes

any fraudulent use of any stamp for distilled spirits, shall be guilty of a felony and shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than three years in the State prison.

§ 37. Disposition of Funds Collected.

SEC. 37. All moneys collected as license fees and under the excise tax provisions of this act shall be deposited in the State treasury to the credit of the alcohol beverage control fund, which fund is hereby created. Moneys in said fund are hereby appropriated as follows:

1. Six hundred thousand dollars for expenditure by the board in carrying out the provisions of this act for collecting the excise taxes levied by this act;

2. Twelve thousand dollars, or so much thereof as may be necessary, for expenditure by the Controller in carrying out the provisions of this act requiring the collection of excise taxes;

3. Sixty thousand dollars to be used by the State Department of Public Health for enforcement work directed toward preventing the manufacture, sale or transportation of adulterated, misbranded or mislabeled alcoholic beverages;

4. One million four hundred thousand dollars to pay the salaries and expenses of auditors, inspectors and clerks employed by the board and to defray the necessary expenses arising by reason of the administration and enforcement of the provisions of this act;

5. Ten thousand dollars for expenditure by the State Department of Finance in auditing the revenues and expenditures resulting from the provisions of this act;

6. Fifty per cent of all moneys collected yearly from fees, to be paid to the counties, cities and counties, and cities of this State in the proportion that the amount of the fees collected in the particular couny, city and county, or city bears to the total amount so collected throughout the State, and

the State Controller shall, on or before March 31 of the year following that in which such moneys were collected, draw his warrants upon said fund in favor of the treasurer of each county, city and county, and city for the amount to which each is entitled hereunder;

7. The expenditures authorized by subdivisions 1, 2, 3, 4 and 5 of this section shall be made exclusively from the remaining fifty per cent of moneys collected from fees and no part thereof from the fifty per cent of fees payable to counties, cities and counties, and cities under the provisions of subdivision 5 of this section.

8. Such amount as is necessary for the allowance of the refunds provided for in this act;

9. Any remaining balance to be transferred to the general fund on the order of the Controller approved by the board.

The moneys to be used by the State Department of Public Health for enforcement work shall be expended as provided in "An act preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded food, liquor and drugs, and making an appropriation," approved March 11, 1907. The Director of Public Health shall communicate to the State Board of Equalization any findings which indicate that such act has been violated by any holder of a license under this act.

§ 38. Board Authorized to Make Rules and Regulations.

SEC. 38. The board shall administer all of the provisions of this act and to that end shall prescribe all necessary rules and regulations to carry out such provisions. The board shall have the power to require any report from any licensee, or transportation companies, and to make any examination of the books and records of any licensee it may deem necessary to perform its duties under this act, and for the performance of its duties shall have all the powers conferred upon it by section 3692 of the Political Code.

The members of the board and the persons employed by the board for the enforcement of the provisions of this act shall have the power to administer and certify oaths, and

shall have all the powers of peace officers in administering the provisions of this act.

The board and persons employed by it for the enforcement of this act shall at all times have the right to visit and inspect any portion of any premises for which licenses are issued under this act or under the State Liquor Control Act.

§ 39. Denial of Licenses.

SEC. 39. A written report of a member of the board or of an employee of the board engaged in the enforcement of this act disclosing that an applicant for a license or the premises for which a license is applied are not qualified for a license under this act shall constitute grounds for the denial of an application for a license.

Immediately upon the denial of any application for a license the board shall notify the applicant thereof in writing. Within ten days after mailing the notice the applicant may present his written petition for a license to the board.

Upon receipt by the board of a petition for a license in proper form it shall be referred to a representative of the board for hearing.

Protests may be made to the board at any time prior to the issuance of a license against either the original issuance of a license or the renewal of a license.

Protests must be in writing and filed in the main office of the board at Sacramento, and must state one or more grounds which would authorize the board, to deny or refuse the issuance of the license. The original copy of the protest must be verified unless made by public officers acting in their official capacity.

Upon receipt by the board of a protest in proper form it shall be referred to a representative of the board for hearing.

If a license has been issued to the applicant before receipt of the protest by the board, the protest shall be considered as a complaint against the licensee and a hearing had thereon as if a complaint had been filed.

§ 40. Complaints Against Licensees.

SEC. 40. Complaints may be made to the board by any person against any licensee. Complaints must be in writing and must state one or more grounds which would authorize the board to suspend or revoke the license or licenses of the licensee against whom the complaint is made.

A written report of a member of the board or of an employee of the board engaged in the enforcement of this act, or of a public officer disclosing grounds for the suspension or revocation of the license or licenses of any licensee shall be deemed a complaint against the licensee within the meaning of this act, even though not in the form of a complaint.

The original copy of complaints must be verified unless made by public officers acting in their official capacity or by employees of the board engaged in the enforcement of this act.

The following are the grounds which constitute a basis for the suspension or the revocation of licenses:

(a) The violation or the causing or the permitting of a violation of this act or of the rules and regulations of the board by any licensee.

(b) The misrepresentation of a material fact by any applicant in obtaining any license hereunder.

§ 41. Hearings Before Representative of Board.

SEC. 41. Upon receipt by a representative of the board of a protest, a complaint or a petition for a license, the representative shall forthwith cause written notice of the time and place of the hearing of said protest, complaint or petition for a license to be given to the protesting or complaining party as well as the applicant, licensee or petitioner. The hearing shall be set for a date not more than fifteen days nor less than five days subsequent to the mailing of the notice and shall be held in the county seat of the county in which the premises of the applicant or licensee are located.

Enclosed with a copy of the notice of the time and place of hearing sent to the applicant or licensee shall be a copy of the protest or complaint as filed with the board.

The failure of an applicant for a license or a licensee to appear before the representative of the board at the time set for the hearing, except for the intervention of an act of God, shall be deemed an admission by him of the facts or acts charged in the protest or complaint and thereupon the representative of the board shall have the power to act as if the facts charged in the protest or complaint were found to be true.

The board or any member thereof or any representative appointed by the board to conduct hearings shall have the power to administer oaths, certify to all official acts, and to issue subpœnas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the State.

Each witness who shall appear, by order of the board or member thereof or a representative appointed by it, shall be entitled to receive, if demanded, for each attendance the same fees and mileage allowed by law to witnesses in civil cases in the superior court, which amount shall be paid by the party at whose request such witness is subpœnaed, unless otherwise ordered by the board or the representative. When any witness who has not been required to attend at the request of any party is subpœnaed by the board, or a member thereof or a representative of the board, his fees and mileage may be paid from the funds appropriated for the use of the board in the administration of this act in the same manner as other expenses of the board are paid in the administration of this act.

The superior court in and for the county, or city and county in which any inquiry, investigation, hearing or proceeding may be held by the board or a representative appointed by it shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents as required by any subpœna issued by the board or any member thereof or a representative appointed by the board.

The board or any representative appointed by it, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpœna, may report to the superior court, in and for the county, or city and county, in which the proceeding or hearing is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness had been subpœnaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpœna, or has refused to answer questions propounded to him in the course of such proceeding or hearing, and ask an order of said court, compelling the witness to attend or testify or produce said papers before the board or representative. The court, upon the petition of the board or any member thereof or a representative appointed by the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he did not attend and testify or produce said papers before the board or representative of the board. A copy of said order shall be personally served upon said witness, and service shall not be made by registered mail as otherwise provided in this act.

If it shall appear to the court that said subpœna was regularly issued by the board or member thereof or a representative of the board and the witness was legally bound to comply therewith, the court shall thereupon enter an order that said witness shall appear before the board or representative at a time and place to be fixed in such order, and testify or produce the required papers, and upon failing to obey such order said witness shall be dealt with as for contempt of court.

§ 42. Conduct of Hearings; Deposition of Witnesses.

Sec. 42. All hearings and investigations before the board or any representative appointed thereby shall be governed by this act and other applicable provisions of law not incon-

sistent herewith and in the conduct of said hearings neither the board nor any representative appointed by it shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner through oral testimony and printed records as is best calculated to extend the substantial rights of the parties and carry out jointly the spirit and provisions of this act.

The board, or any member of the board or any representative appointed by it, or any party to the action or proceeding may, in any investigation or hearing before the board or a representative thereof cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior court of this State, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts; provided that depositions taken outside of the State may be taken before any officer authorized to administer oaths.

§ 43. Certification of Findings to Board.

SEC. 43. Within ten days after the hearing the representative of the board shall certify to the board his findings of ultimate fact whether the protest, complaint or petition is true or not, and in the case of hearings on complaints the representative may make recommendations in respect to the suspending or revoking of licenses. The findings and recommendations of the representative shall not be open to public inspection, either to the applicant, licensee, protestant, complainant or any other person.

§ 44. Notice of Board's Decision.

SEC. 44. After the findings of the representative of the board are filed, the board shall make its decision upon the petition for a license, protest or complaint, and shall notify the petitioner, protestant, complainant, and licensee thereof. Within ten days after the mailing of the notice, the petitioner, protestant, complainant or licensee may petition the board for a reconsideration of the cause. Such petitions shall be verified unless filed by a public officer acting in his official capacity.

§ 45. Rehearing by Board.

SEC. 45. Within thirty days after receipt by the board of a petition for reconsideration the board shall itself rehear the entire matter de novo and shall thereupon and within said thirty days either affirm, modify or set aside its original order.

§ 46. Court Review of Board's Action.

SEC. 46. The action of the board upon a petition for a license, a protest, complaint, or a petition for reconsideration shall be subject to review by any court of competent jurisdiction.

§ 47. Petition for Reconsideration Not a Bar to Review by Court.

SEC. 47. The filing of a petition for reconsid[illegible] with the board shall not be a bar to any application to the courts for relief and shall not prevent a court from reviewing or setting aside the action of the board upon a petition for a license, protest or complaint.

§ 48. Service of Notice.

SEC. 48. Service of the notices required by this act may be made personally or by mail; if by mail service shall be made in the manner prescribed by section 1013 of the Code of Civil Procedure.

§ 49. Restriction on Deliveries by Common Carriers.

SEC. 49. Common or private carriers shall transport alcoholic beverages into the State only when such alcoholic beverages are to be consigned to a licensed importer. The carrier must obtain the receipt of such importer for the alcoholic beverage so transported and delivered and, if the consignee refuses to give a receipt and show his importer's license to the carrier, the carrier shall be relieved of all responsibility for delivering said alcoholic beverage. Where the consignee is not a licensed importer the carrier shall

immediately notify the board at Sacramento, giving full details as to the character of shipment, point of origin, destination, and address of the consignor and consignee and within ten days such alcoholic beverage shall be summarily forfeited to the State of California and shall be turned over to the board for sale at public auction.

Every person violating the provisions of this section shall be guilty of a misdemeanor.

§ 50. Postal Shipments.

SEC. 50. Postal authorities may refuse delivery of any shipment of alcoholic beverage originating outside of this State. Postal authorities may turn such alcoholic beverage over to the board. The beverage when received shall be summarily forfeited to the State, to be sold at public auction by the board. Every person violating the provisions of this section shall be guilty of a misdemeanor.

§ 51. Unlawful Possession; Power to Seize.

SEC. 51. It shall be unlawful for any licensee to have upon any premises for which licenses have been issued to such licensee any alcoholic beverages other than the alcoholic beverages which such licensee is authorized to sell at such premises under the license or licenses issued therefor.

It shall be presumed that all alcoholic beverages found or located upon premises for which licenses have been issued belong to the person or persons to whom such licenses were issued.

Every person violating the provisions of this section shall be guilty of a misdemeanor. The board or its representatives may either seize and summarily destroy or may seize and sell at public auction any alcoholic beverages found upon any premises in violation of this section.

The board shall also have the power to seize and summarily destroy or sell at public auction the following alcoholic beverages:

1. Alcoholic beverages manufactured in this State by any person other than a licensed manufacturer, regardless of where found;

2. Beer and wine upon the sale of which the excise tax imposed by this act has not been paid, regardless of where found;

3. Distilled spirits except (a) distilled spirits located upon premises for which licenses authorizing the sale of such distilled spirits have been issued; (b) distilled spirits consigned to and in the course of transportation to a licensee holding licenses authorizing the sale of such distilled spirits; (c) distilled spirits the containers of which bear the stamps herein required to be attached thereto; (d) distilled spirits in United States Government bonded warehouses.

§ 52. Restrictions on Sales in Public Barrooms.

SEC. 52. Every person who sells, serves or otherwise disposes of any alcoholic beverage, except beer which may be so sold, served or disposed of, over or at any public bar or in any public barroom, for consumption on the premises, shall be guilty of a misdemeanor.

§ 53. Failure to File Reports; False Information.

SEC. 53. Any person who fails, neglects or refuses to file any report required to be filed by this act within ten days after the report is required to be filed, or who makes any false statement or conceals any material fact in any application for a license or in any record, report, affidavit or claim provided for herein, shall be guilty of a misdemeanor unless such act is by any other law of this State declared to be a felony, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than one month, nor more than six months, or by both such fine and imprisonment.

§ 54. Restrictions on Owning Interest in On Sale Premises.

SEC. 54. No manufacturer, rectifier, distiller, bottler, importer or wholesaler or any officer, director or agent of any such person shall

(a) Hold the ownership, directly or indirectly, of any interest in any "on-sale" license;

(b) Furnish, give or lend any money or other thing of value, directly or indirectly, to, nor guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning or maintaining any "on-sale" premises where alcoholic beverages are sold for consumption on such premises;

(c). Furnish, give, rent, lend or sell, directly or indirectly, any equipment, fixtures or supplies, other than alcoholic beverage directly or indirectly to any person engaged in operating, owning or maintaining any "on-sale" premises where alcoholic beverages are sold for consumption on such premises, provided that this subdivision shall apply only to manufacturers, bottlers, importers or wholesalers of products of the brewing industry;

(d) Furnish, give, lend or rent directly or indirectly to any person any decorations, paintings or signs other than signs for interior use of not to exceed in area six hundred thirty square inches for use in or about or in connection with any premises where alcoholic beverages are sold for consumption on such premises, or pay money or any thing of value for the privilege of placing or painting a sign or advertisement, or window display on or in any premises selling alcoholic beverages at retail;

(e) Own any interest, directly or indirectly, in the business, furniture, fixtures, signs, except signs for interior use mentioned in subdivision (d) herein, refrigeration equipment or lease in or of any premises operated or maintained under any "on-sale" license for the sale of alcoholic beverages for consumption on the premises where sold; or own any interest directly or indirectly, in realty hereafter acquired upon which such "on-sale" premises are maintained unless the holding of such interest is permitted in accordance with regulations of the board.

Any person violating any provision of this section shall be guilty of a misdemeanor and any holder of any retail "on-sale" or retail "off-sale" license who shall solicit the

violation of the provisions of this section or accept or permit to be accepted on his behalf and with his consent any of the prohibited matters, articles or acts herein designated shall be guilty of a misdemeanor; provided, however, that the provisions of this section shall not apply to any equipment, fixtures or supplies furnished, given, lent or sold prior to the passage of this act so long as such equipment, fixtures or supplies remain in the premises in which installed prior to such time, nor shall the provisions of this act apply to carbonic acid gas or tapping accessories if sold at the reasonable open market value and the aggregate cost of tapping accessories furnished to any one person does not exceed $5.00 in any one calendar year.

§ 55. Restrictions on Use of Signs.

SEC. 55. No sign or signs, which in whole or in part advertise any alcoholic beverage, and exceed in area seven hundred twenty square inches and no sign using the words "bar," "barroom," "saloon," "cocktail bar" or "lounge," or words of like or similar import, shall be maintained, erected, used or placed upon or adjacent to the outside of any building and in connection with any premises therein licensed to sell alcoholic beverages at retail for consumption on such premises.

Signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall not be of any obnoxious, gaudy, blatant or offensive nature and shall in no manner contrary to the rules or regulations of said board obstruct the view of the interior of the premises from the street.

Each and every holder of an "on-sale" retail license who shall give, sell or otherwise dispense any draught beer, shall, upon the faucet, spigot or outlet where from such beer is drawn, attach and keep posted a clear and legible notice, placard or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of such draught beer so given, sold or dispensed by such licensee, and which notice, placard or marker shall be so situated as to be clearly legible for a

distance of at least ten (10) feet from such spigot, faucet or outlet to a person with normal vision, and such notice, sign or placard shall at all times be so situated as to be so clearly legible from the place where such "on-sale" licensee serves any customer or consumer of such beer, and provided further that if such faucet, spigot or other drawing device is in a location not within the room of the place of service and consumption of such beer, then, and in that event there shall also be kept posted a similar notice, placard or marker in the place of service and consumption of such beer which shall truthfully state and indicate only the kinds and brands of draught beer actually on sale in the premises of the "on-sale" licensee.

Any person who shall violate any of the provisions of this section, or who shall substitute another or different brand of draught beer from that indicated by any of the notices, placards or markers hereinabove provided for; or who shall substitute one brand of beer for another, or misrepresent the brand or kind of beer served to a consumer, shall be guilty of a misdemeanor for such violation or noncompliance. Any person who sells or otherwise disposes of, except for export, any draught beer containing more than three and two-tenths per cent of alcohol by weight and any person who sells or otherwise disposes of, except for export, any bottled beer containing more than four per cent of alcohol by weight, shall be guilty of a misdemeanor; provided, that this limitation shall not apply to the sale of ale, porter, brown and stout in bottles bearing labels properly describing the contents under any licenses, other than on sale beer licenses, issued under this act or the State Liquor Control Act.

§ 56. Employment of Minors Unlawful.

SEC. 56. Every person who employs or uses the services of minors in or on that portion of any premises which are used for the sale and service of alcoholic beverages for consumption on the premises shall be guilty of a misdemeanor.

§ 57. Employment of Hostesses and Entertainers on Percentage Basis Unlawful.

SEC. 57. It shall be unlawful for any person to pay or agree to pay any hostess, waitress, entertainer or other person a percentage of the receipts from sales of alcoholic beverages solicited or made by such hostess, waitress, entertainer or other person a salary or remuneration the amount of which is in any way dependent upon the amount or number of sales of alcoholic beverages solicited or made by such hostess, waitress, entertainer or other person. Provided, that this section shall not prohibit the holders of manufacturer's, rectifier's or wholesaler's licenses from employing and paying salesmen engaged in selling or soliciting sales for alcoholic beverages on a commission basis.

Every person who violates the provisions of this section shall be guilty of a misdemeanor.

§ 58. Disorderly Houses Unlawful.

SEC. 58. Every person who keeps or permits to be used or suffers to be used any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience or safety shall be guilty of a misdemeanor.

§ 59. Sales on Election Day Unlawful.

SEC. 59. Every on- or off-sale licensee who sells, gives away or furnishes any alcoholic beverage in any election district or precinct in any county in the State where an election is in progress, during the hours when by law the polls are required to be kept open for voting shall be guilty of a misdemeanor.

§ 60. Restrictions as to Time of Making Wholesale Deliveries.

SEC. 60. Except as otherwise provided in this section, no person licensed to manufacture, import or wholesale any

alcoholic beverage shall deliver or cause to be delivered any beer to or for any person holding an on-sale or off-sale license except between the hours of six a.m. and eight p.m. and no such delivery of any alcoholic beverage shall be made or caused to be made by any such licensee on Sunday. Alcoholic beverages may be delivered at the platform of the manufacturing or distributing plant at any time. Every person violating the provisions of this section shall be guilty of a misdemeanor.

§ 61. Sales to Minors Unlawful.

SEC. 61. Every person who sells, furnishes, gives, or causes to be sold, furnished or given away any alcoholic beverage to any person under the age of twenty-one years shall be guilty of a misdemeanor; provided, that this section shall not apply to the parents or guardians of such persons under twenty-one years of age.

§ 62. Sales to Habitual Drunkard Unlawful.

SEC. 62. Every person who sells, furnishes, gives or causes to be sold, furnished or given away, any alcoholic beverage to any habitual or common drunkard shall be guilty of a misdemeanor.

§ 63. Restrictions on Bringing Alcoholic Beverage Into Jails, etc.

SEC. 63. Every person, not authorized by law, who brings into any State prison, town or county jail, or city and county jail, or reformatory in this State or within the grounds belonging to any such institution any alcoholic beverage of any kind whatsoever shall be guilty of a felony.

§ 64. Sales on Public School Grounds Unlawful.

SEC. 64. Every person who sells, gives or delivers to any other person any alcoholic beverage at any public schoolhouse or upon any portion of the grounds thereof shall be guilty of a misdemeanor. Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or

receiving any privilege of the use of public school property which is accorded by Chapter II of Part III of Division VI of the School Code of this State.

§ 65. Punishment for Misdemeanors; Disposition of Fines.

SEC. 65. Every person convicted of a misdemeanor for a violation of any of the provisions of this act for which another punishment is not specifically provided for herein, shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

All fines and forfeitures imposed for a violation of this act and collected in any court, except police courts, city justices' courts, city courts, and recorders' courts of cities or towns, must be paid to the county treasurer of the county in which the court is held; provided, that all fines and forfeitures collected in any police court, city justice's court, city court, or recorder's court, of any city or town that is maintained and the salaries of the officers thereof paid by the city shall be paid to the city treasurer of the city in which such court is located, excepting, however, all forfeitures collected by the judge of any of said courts when sitting as a committing magistrate.

§ 66. Punishment for Felony.

SEC. 66. Every person convicted of a felony for a violation of any of the provisions of this act for which another punishment is not specifically provided for herein, shall be punished by a fine of not more than five thousand dollars or by imprisonment in the State penitentiary for not less than one year nor more than five years or by both such fine and imprisonment.

§ 67. Act Not Applicable to Denatured Alcohol.

SEC. 67. It is hereby declared that this act shall not apply to the manufacture, sale or use of completely denatured ethyl alcohol or special denatured ethyl alcohol, as these

substances are defined in the various statutes and regulations of the United States Government relating thereto.

Nothing in this act shall be deemed to prevent or restrict the use of tax-free ethyl alcohol under regulation of the Treasury Department of the United States government by any governmental agency, State or Federal, or any scientific university or college of learning or any laboratory for use exclusively in scientific research or to any hospital or sanitarium.

Nothing in this act shall be deemed to prevent or restrict the use of tax-free alcohol or of industrial alcohol or other distilled spirits or wine under regulation of the United States government in the manufacture of medicinal pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; of toilet products, of flavoring extracts, sirups, of food products, of scientific, chemical, or industrial products; provided such products are unfit for beverage use.

§ 68. 1933 Liquor Control and Beverage Tax Acts Effective Until July 1, 1935.

SEC. 68. The State Liquor Control Act, Chapter 658, Statutes of 1933, and Chapter 178, Statutes of 1933, shall remain in effect until July 1, 1935, after which date said acts shall no longer be of any force and effect; provided, that any taxes imposed pursuant to Chapter 178, Statutes of 1933, prior to said date shall remain fully collectible.

§ 69. Schedule of Laws Repealed.

SEC. 69. The following acts and sections, together with all amendments thereof and all acts supplementary thereto, are repealed.

Year	Chapter	Page	Year	Chapter	Page
1855	188	240	1873–74	300	434
1858	232	193	1873–74	345	509
1860	223	186	1875–76	473	691
1871–72	188	231	1880	83	80
1873–74	13	12	1889	241	352
1873–74	27	27	1891	87	91
1873–74	198	297			

Year	Chapter	Page	Year	Chapter	Page
1895	156	161	1911	351	599
1903	240	319	1915	21	20
1905	26	20	1921	80	79
1905	123	126	1925	89	221
1907	104	127	1933	51	340
1909	413	722	1933	149	598

Penal Code Sections.

63b 397b 680

Political Code Sections.

3381
3383

School Code Sections.

3.80
3.81

§ 70. Constitutionality.

SEC. 70. If any sections, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portion of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

§ 71. Act Effective Immediately.

SEC. 71. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.